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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,238	02/05/2002	James B. Schrempp	AMC-005CIB	5358

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EXAMINER	
TANG, KAREN C	

ART UNIT	PAPER NUMBER
2151	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/072,238	SCHREMPP ET AL.	
	Examiner	Art Unit	
	KAREN C. TANG	2151	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☐ Claim(s) _____ is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

- This action is responsive to the amendment and remarks file on 1/22/08.
- Claims 1-44 are presented for further examination.
- Because Applicants have failed to challenge any of the Examiner's "Official Notices" stated in the previous office action in a proper and reasonably manner, they are now considered as admitted prior art. See MPEP 2144.03

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 1/22/08 have been fully considered but they are not persuasive.

Applicant argues that the cited art of records did not disclose "generating a corresponding representation from said data" nor of "transmitting said representation"

Examiner disagrees:

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

It is understood that AAPA contains a analysis module, where it received the data (such as signals that contains new songs, new advertisements, refer to Page 4, Lines 9, Lines 16-20), and generating a corresponding representation from said data (generating identification, playlist, refer to Page 4, Lines 9, and Page 5, Lines 1-15 and Page 12, Lines 13-21) and transmitting said representation (refer to Page 6, Lines 14);

Applicant intended to argue the mapping of the term "representation", "work" and "identification". Applicant needs to further define the definitions within the claim language to further narrowing down the definitions or else it is only reasonable to interpret the terms within knowledge of ordinary skill in the art.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

It is understood that Ward disclosed the limitation where "said second tier identification server includes a plurality of tiers of identification servers (there are plurality of content provider systems which is associated with the remote storage, in another words, since the content provider systems are to support and provide additional information for the remote storage, the content providers are plurality of tiers of identification server which helped the second tier identification server/remote storage, to find additional information, refer to Col 5, Lines 30-46)."

Therefore, the office action filed on 9/19/07 disclosed every limitation in the claim language.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 1-22, 24, 26-30, 32, 33, 35, 38, 39, 41, 43 and 44 are rejected under 35 U.S.C. 102(e) as being anticipated by Applicant Admitted Prior Art hereinafter AAPA (Background Invention) in view of Cusson et al hereinafter Cusson (US 6,487,641).

1. Referring to Claim1, 23, 30, 33, 39 and 43, AAPA discloses a new media identification system comprising:

at least one analysis module for receiving data (module receive signals, refer to Page 5, Lines 3-5) including data for a work from a plurality of sources (multiple streams, different type of music in different channel, refer to Page 3, Lines 5-10m and Lines 13), generating a corresponding representation from said data (generating identification, playlist, refer to Page 4, Lines 9, and Page 5, Lines 1-15 and Page 12, Lines 13-21), and transmitting said representation (refer to Page 4, Lines 9 and Page 6, Lines 14); at least one First Tier identification server for receiving said representation and identifying said work from said representation (refer to Page 5, Lines 5-15); and at least for identifying said work from said representation when said at least one First Tier Identification server does not identify said work (refer to Page 6, Lines 13-20).

Although AAPA disclosed the invention substantially as claimed, AAPA is silent regarding the limitation indicating, "determining whether said representation is similar to previously received unidentified representation"

Cusson, in an analogous art disclosed. "determining whether said representation is similar to previously received unidentified representation" (refer to Col 5, Lines 50-60 and Col 12, Lines 50-67)

Hence, providing features disclosed by Cusson, would be desirable for a user to implement in order to reduce the cost and resource for determine when a "miss" occur repetitively in the cache/database.

Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the system of AAPA by including the features presented by Cusson.

2. Referring to Claim 2, system of Claim 1, AAPA discloses wherein said at least one analysis module further includes an input port configured to receive said data from a networked source (refer to Page 3, Lines 7).

3. Referring to Claim 3, system of Claim 1, AAPA discloses wherein said at least one analysis module further includes an input port configured to receive said data from a broadcast source (refer to Page 4, Lines 9).

4. Referring to Claim 4, system of Claim 1, AAPA discloses wherein said at least one analysis module further includes an input port configured to receive said data in the form of a pre-broadcast digital form (refer to Page 4, Lines 1).

5. Referring to Claim 5, system of Claim 1, AAPA discloses wherein said at least one analysis module and said at least one First Tier Identification server coupled over a network (refer to Page 5, Lines 1-15).

6. Referring to Claim 6, system of Claim 1, AAPA discloses wherein said network comprises the internet (refer to Page 5, Lines 14).

7. Referring to Claim 22, system of Claim 1, AAPA discloses the one analysis modules are further configured to received a plurality of streaming source for analysis at the single location (refer to refer to Page 5, Lines 10-15).

8. Referring to Claim 24, system of Claim 1, AAPA discloses wherein said at least one analysis module is configured to provide said representations to said at least one First Tier ID server at a predetermined time internal (refer to Page 5, Lines 8-10).

9. Referring to Claims 7-21, the system of Claim 1, although AAPA disclosed the invention substantially as claimed, AAPA is silent regarding wherein said representation comprises feature vectors, a spectral representation of said work, the text output of a speech recognition system, musical score output of a music transcription system, and a bit calculated key.

AAPA disclosed that it is obvious that the representation comprises feature vectors, a spectral representation of said work, the text output of a speech recognition system, musical score output

of a music transcription system, and a bit calculated key, because these are well known in the art (refer to Page 2, Lines 18-21, Page 13, Lines 1-10).

10. Referring to Claims 26 and 27, system of Claim 1, although AAPA disclosed the invention substantially as claimed, AAPA is silent regarding wherein said predetermined time interval comprises approximately once an hour; wherein said predetermined time interval comprises approximately once a day.
It is obvious that the predetermined time interval be once an hour, and once a day because AAPA disclosed the system be perform the methods in the predetermined time interval.

11. Referring to Claim 28, the system of Claim 24, AAAPA wherein said at least one analysis module is configured to provide said representation to said at least one First Tier identification server based on an out of band event (refer to Page 2, Lines 1-5).

12. Referring to Claim 29, the system of Claim 1, AAPA wherein said First Tier Identification server is further configured to generate a playlist of identified work (refer to Page 5, Lines 10-15).

13. Referring to Claims 32, 41 and 44, the system of Claim 30, AAPA discloses the act of providing a reference database of representation expected to be detected on said First Tier Identification Server (refer to Page 6, Lines 10-20).

14. Referring to Claims 35 and 38, the system of Claim 33, AAPA discloses wherein each successive said at least one Tier N+ 1 server includes a database larger said database of said N Tier server (refer to Page 6, Lines 18).

Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant Admitted Prior Art hereinafter AAPA in view of Cusson et al hereinafter Cusson (US 6,487,641) in further view Official Notice.

15. Referring to Claim 34, the system of claim 33, although AAPA and Cusson disclosed the invention substantially as claimed, AAPA is silent regarding wherein said at least one Tier N+ 1 server is configured to notify said Tier N server of a repeating segment if a repeating segment is identified.

Official Notice is taken that it would have been obvious to a person of ordinary skill in the art to indicate the notification of the servers from the Tier N+1 server to the Tier N server.

The suggestion/motivation would have been that by providing the notification, it would provide the information to let the system to know that the search/query of the presentation is complete and thus the system can stop the task of updating search without further use unnecessary bandwidth.

Claims 31, 36, 40 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant Admitted Prior Art hereinafter AAPA in view of Cusson et al hereinafter Cusson (US 6,487,641) in further view Ward (US 6,526,411).

16. Referring to Claims 31, 40 and 43, the system of Claim 30, although AAPA and Cusson disclosed the invention substantially as claimed, AAPA is silent regarding wherein said second tier identification server includes a plurality of tiers of identification servers.
Ward, in an analogous art discloses, wherein said second tier identification server includes a plurality of tiers of identification servers (refer to Col 5, Lines 30-46).
Hence, providing functions disclosed by Ward, would be desirable for a user to implement in a system so it is easy to use, and can easily add or subtract music or videos.

Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the system of AAPA and Cusson, by including the features presented by Ward.

17. Referring to Claim 36, the system of claim 35, although AAPA and Cusson disclosed the invention substantially as claimed, AAPA is silent regarding wherein all said at least one N+1 tiers operate in parallel.
Ward, in an analogous art discloses, wherein all said at least one N+1 tiers operate in parallel (refer to Col 7, Lines 60-67 and Col 8, Lines 1-10).
Hence, providing functions disclosed by Ward, would be desirable for a user to implement in a system so it is easy to use, and can easily add or subtract music or videos.

Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the system of AAPA and Cusson, by including the features presented by Ward.

Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant Admitted Prior Art hereinafter AAPA in view of Cusson et al hereinafter Cusson (US 6,487,641) in further view Ward (US 6,526,411) with Official Notice.

18. Referring to Claim 37, the system of claim 36, although AAPA, Cusson and Ward disclosed the invention substantially as claimed. AAPA, Cusson and Ward are silent regarding wherein the operation of said N+1 tiers is aborted upon the identification of an unknown segment by a member of said successive tiers.

Official Notice is taken that it would have been obvious to a person of ordinary skill in the art to indicate the notification of the servers from the Tier N+1 server to the Tier N server.

The suggestion/motivation would have been that by providing the notification, it would provide the information to let the system to know that the search/query of the presentation is complete and thus the system can stop the task of updating search without further use unnecessary bandwidth.

Conclusion

Examiner's Notes: Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references

in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner. In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen C. Tang whose telephone number is (571)272-3116. The examiner can normally be reached on M-F 7 - 3.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571)272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/K. C. T./
Examiner, Art Unit 2151

/John Follansbee/

Supervisory Patent Examiner, Art Unit 2151